

stock, securities, or other property received in exchanges subject to section 351.

(d) See part I (section 301 and following), subchapter C, chapter 1 of the Code, and the regulations thereunder for applicable rules with respect to the taxation of dividends where a distribution by a corporation of its stock or securities in connection with an exchange subject to section 351(a) has the effect of the distribution of a taxable dividend.

(e) See § 1.356-7(a) for the applicability of the definition of nonqualified preferred stock in section 351(g)(2) for stock issued prior to June 9, 1997, and for stock issued in transactions occurring after June 8, 1997, that are described in section 1014(f)(2) of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788, 921). See § 1.356-7(c) for the treatment of preferred stock received in certain exchanges for common or preferred stock described in section 351(g)(2)(C)(i)(II).

[T.D. 6500, 25 FR 11607, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 8904, 65 FR 58650, Oct. 2, 2000]

§ 1.351-3 Records to be kept and information to be filed.

(a) *Significant transferor.* Every significant transferor must include a statement entitled, "STATEMENT PURSUANT TO § 1.351-3(a) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER]. A SIGNIFICANT TRANSFEROR," on or with such transferor's income tax return for the taxable year of the section 351 exchange. If a significant transferor is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and employer identification number (if any) of the transferee corporation;

(2) The date(s) of the transfer(s) of assets;

(3) The aggregate fair market value and basis, determined immediately before the exchange, of the property

transferred by such transferor in the exchange; and

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the section 351 exchange.

(b) *Transferee corporation.* Except as provided in paragraph (c) of this section, every transferee corporation must include a statement entitled, "STATEMENT PURSUANT TO § 1.351-3(b) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A TRANSFeree CORPORATION," on or with its income tax return for the taxable year of the exchange. If the transferee corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and taxpayer identification number (if any) of every significant transferor;

(2) The date(s) of the transfer(s) of assets;

(3) The aggregate fair market value and basis, determined immediately before the exchange, of all of the property received in the exchange; and

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the section 351 exchange.

(c) *Exception for certain transferee corporations.* The transferee corporation is not required to file a statement under paragraph (b) of this section if all of the information that would be included in the statement described in paragraph (b) of this section is included in any statement(s) described in paragraph (a) of this section that is attached to the same return for the same section 351 exchange.

(d) *Definitions.* For purposes of this section:

(1) *Significant transferor* means a person that transferred property to a corporation and received stock of the transferee corporation in an exchange described in section 351 if, immediately after the exchange, such person—

(i) Owned at least five percent (by vote or value) of the total outstanding stock of the transferee corporation if

the stock owned by such person is publicly traded, or

(ii) Owned at least one percent (by vote or value) of the total outstanding stock of the transferee corporation if the stock owned by such person is not publicly traded.

(2) *Publicly traded stock* means stock that is listed on—

(i) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3).

(e) *Substantiation information.* Under § 1.6001-1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with the exchange described in this section, these records should specifically include information regarding the amount, basis, and fair market value of all transferred property, and relevant facts regarding any liabilities assumed or extinguished as part of such exchange.

(f) *Effective/applicability date.* This section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.351-3 as contained in 26 CFR part 1 in effect on April 1, 2006.

[T.D. 9329, 72 FR 32798, June 14, 2007]

EFFECTS ON SHAREHOLDERS AND
SECURITY HOLDERS

§ 1.354-1 Exchanges of stock and securities in certain reorganizations.

(a) Section 354 provides that under certain circumstances no gain or loss is recognized to a shareholder who surrenders his stock in exchange for other stock or to a security holder who surrenders his securities in exchange for stock. Section 354 also provides that

under certain circumstances a security holder may surrender securities and receive securities in the same principal amount or in a lesser principal amount without the recognition of gain or loss to him. The exchanges to which section 354 applies must be pursuant to a plan of reorganization as provided in section 368(a) and the stock and securities surrendered as well as the stock and securities received must be those of a corporation which is a party to the reorganization. Section 354 does not apply to exchanges pursuant to a reorganization described in section 368(a)(1)(D) unless the transferor corporation—

(1) Transfers all or substantially all of its assets to a single corporation, and

(2) Distributes all of its remaining properties (if any) and the stock, securities and other properties received in the exchange to its shareholders or security holders in pursuance of the plan of reorganization. The fact that properties retained by the transferor corporation, or received in exchange for the properties transferred in the reorganization, are used to satisfy existing liabilities not represented by securities and which were incurred in the ordinary course of business before the reorganization does not prevent the application of section 354 to an exchange pursuant to a plan of reorganization defined in section 368(a)(1)(D).

(b) Except as provided in section 354 (c) and (d), section 354 is not applicable to an exchange of stock or securities if a greater principal amount of securities is received than the principal amount of securities the recipient surrenders, or if securities are received and the recipient surrenders no securities. See, however, section 356 and regulations pertaining to such section. See also section 306 with respect to the receipt of preferred stock in a transaction to which section 354 is applicable.

(c) An exchange of stock or securities shall be subject to section 354(a)(1) even though—

(1) Such exchange is not pursuant to a plan of reorganization described in section 368(a), and

(2) The principal amount of the securities received exceeds the principal amount of the securities surrendered or